



1632/JFW

DOCKET NO.: C1040.70010US00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: McCluskie et al.
Serial No.: 09/768,012
Confirmation No.: 9273
Filed: January 22, 2001
For: IMMUNOSTIMULATORY NUCLEIC ACIDS FOR
INDUCING A TH2 IMMUNE RESPONSE
Examiner: Dave Trong Nguyen
Art Unit: 1632

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

The undersigned hereby certifies that this document is being placed in the United States mail with first-class postage attached, addressed to MAIL STOP AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the 25 day of October, 2004.

Kristin J. Ketelhut
Kristin J. Ketelhut

MAIL STOP AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

STATEMENT FILED PURSUANT TO THE DUTY OF
DISCLOSURE UNDER 37 CFR §§1.56, 1.97 AND 1.98

Sir:

Pursuant to the duty of disclosure under 37 C.F.R. §§1.56, 1.97 and 1.98, the Applicant requests consideration of this Information Disclosure Statement.

PART I: Compliance with 37 C.F.R. §1.97

This Information Disclosure Statement has been filed before the mailing of a first Office Action after the filing of a request for continued examination under 37 C.F.R. §1.114.

No fee or certification is required.

PART II: Information Cited

The Applicant hereby makes of record in the above-identified application the information listed on the attached form PTO-1449 (modified). The order of presentation of the references should not be construed as an indication of the importance of the references.

The Applicant hereby makes the following additional information of record in the above-identified application.

The Applicant would like to bring to the Examiner's attention the following co-pending applications that may contain subject matter related to this application:

<u>Docket No.</u>	<u>Serial No.</u>	<u>Filing Date</u>	<u>Inventor(s)</u>
C1037.70013US01	10/831,778	April 23, 2004	Bratzler et al.
C1037.70039US01	10/816,220	April 1, 2004	McCluskie et al.
C1037.70048US00	10/644,052	August 19, 2003	Jurk et al.
C1037.70049US00	10/643,141	August 18, 2003	Hutcherson et al.
C1037.70052US00	10/668,050	September 22, 2003	Bratzler et al.
¹ C1039.70020US01	10/921,086	August 18, 2004	Krieg et al.
² C1039.70035US01	10/884,866	July 2, 2004	Krieg et al.
² C1039.70035US02	10/888,803	July 9, 2004	Krieg et al.
C1039.70048US02	10/817,165	April 2, 2004	Krieg et al.
³ C1039.70048US03	10/831,647	April 23, 2004	Krieg et al.
³ C1039.70048US04	10/847,642	May 15, 2004	Krieg et al.
³ C1039.70048US05	10/877,407	June 24, 2004	Krieg et al.
³ C1039.70048US06	10/884,852	July 2, 2004	Krieg et al.
³ C1039.70048US07	10/888,785	July 9, 2004	Krieg et al.
³ C1039.70048US08	10/888,449	July 9, 2004	Krieg et al.
³ C1039.70048US09	10/894,657	July 16, 2004	Krieg et al.
³ C1039.70048US10	10/894,862	July 16, 2004	Krieg et al.
³ C1039.70048US11	10/928,762	August 26, 2004	Krieg et al.
⁴ C1039.70057US01	10/838,659	May 3, 2004	Davis et al.

¹Copy not enclosed; see C1039.70020US00, Serial No. 09/337,584 for identical specification

²Copy not enclosed; see C1039.70035US00, Serial No. 09/699,187 for identical specification

³Copy not enclosed; see C1039.70048US02, Serial No. 10/817,165 for identical specification

⁴Copy not enclosed; see C1039.70057US00, Serial No. 09/965,101 for identical specification

<u>Docket No.</u>	<u>Serial No.</u>	<u>Filing Date</u>	<u>Inventor(s)</u>
C1039.70058US01	10/831,775	April 23, 2004	Davis et al.
C1039.70083US03	10/788,199	February 26, 2004	Krieg et al.
⁵C1039.70083US08	10/847,650	May 15, 2004	Krieg et al.
⁵C1039.70083US09	10/888,885	July 9, 2004	Krieg et al.
⁵C1039.70083US10	10/888,089	July 9, 2004	Krieg et al.
C1039.70084US00	10/649,584	August 25, 2003	Krieg et al.
⁶C1040.70006US01	10/888,886	July 9, 2004	McCluskie et al.
C1040.70012US00	10/644,267	August 20, 2003	Davis et al.
⁷C1041.70002US01	10/877,369	June 25, 2004	Wagner et al.
⁷C1041.70002US02	10/876,965	June 25, 2004	Wagner et al.
⁷C1041.70002US03	10/876,892	June 25, 2004	Wagner et al.
⁸C1041.70005US01	10/811,226	March 26, 2004	Wagner et al.
⁸C1041.70005US02	10/894,655	July 16, 2004	Wagner et al.
C1041.70016US01	10/884,372	July 2, 2004	Bauer et al.
C1041.70024WO00	PCT/US04/12788	April 22, 2004	Vollmer et al.
C1041.70036US01	10/872,196	June 18, 2004	Lipford et al.
C1041.70040US00	10/666,844	September 19, 2003	Lipford et al.

⁵Copy not enclosed; see C1039.70083US03, Serial No. 10/788,199 for identical specification

⁶Copy not enclosed; see C1040.70006US00, Serial No. 09/316,199 for identical specification

⁷Copy not enclosed; see C1041.70002US00, Serial No. 09/241,653 for identical specification

⁸Copy not enclosed; see C1041.70005US00, Serial No. 09/355,254 for identical specification

The Applicant would like to bring to the Examiner's attention the enclosed search report from a corresponding International or Foreign National Application.

<u>Docket No.</u>	<u>Serial No.</u>	<u>Mailing Date</u>	<u>Type of Communication</u>
C1040.70010WO00	PCT/US01/02170	7 June 2001	International Search Report
C1040.70010WO00	PCT/US01/02170	13 September 2001	Written Opinion
C1040.70010WO00	PCT/US01/02170	18 January 2002	International Preliminary Examination Report

The following are remarks concerning the other information cited:

PART III: Remarks

Documents cited anywhere in the Information Disclosure Statement are enclosed unless otherwise indicated. It is respectfully requested that:

1. The Examiner consider completely the cited information, along with any other information, in reaching a determination concerning the patentability of the present claims;
2. The enclosed form PTO-1449 be signed by the Examiner to evidence that the cited information has been fully considered by the Patent and Trademark Office during the examination of this application;
3. The citations for the information be printed on any patent which issues from this application.

By submitting this Information Disclosure Statement, the Applicant makes no representation that a search has been performed, of the extent of any search performed, or that more relevant information does not exist.

By submitting this Information Disclosure Statement, the Applicant makes no representation that the information cited in the Statement is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56(b).

By submitting this Information Disclosure Statement, the Applicant makes no representation that the information cited in the Statement is, or is considered to be, in fact, prior art as defined by 35 U.S.C. §102.

Serial No.: 09/768,012
Conf. No.: 9273

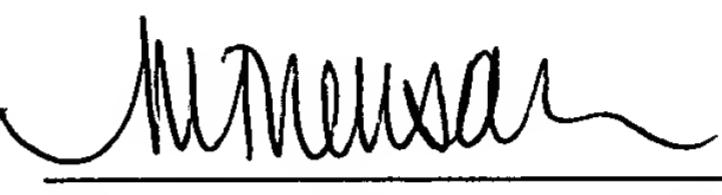
- 5 -

Art Unit: 1632

Notwithstanding any statements by the Applicant, the Examiner is urged to form his own conclusion regarding the relevance of the cited information.

An early and favorable action is hereby requested.

Respectfully submitted,
McCluskie et al., Applicant

By: 

Maria A. Trevisan, Reg. No. 48,207
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, Massachusetts 02210-2206
Telephone: (617) 646-8000

Docket No.: C1040.70010US00

Date: October 25, 2004

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Kristin J. Ketelhut

MAIL STOP AMENDMENT

Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

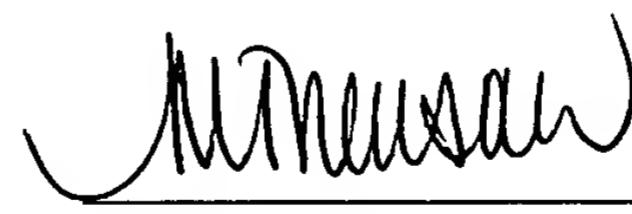
Transmitted herewith are the following documents:

- Information Disclosure Statement
- PTO Form 1449 with cited references
- Return Receipt Postcard

If the enclosed papers are considered incomplete, the Mail Room and/or the Application Branch is respectfully requested to contact the undersigned at (617) 646-8000, Boston, Massachusetts.

A check is not enclosed. If a fee is required, the Commissioner is hereby authorized to charge Deposit Account No. 23/2825. A duplicate of this sheet is enclosed.

Respectfully submitted,
McCluskie et al., Applicant

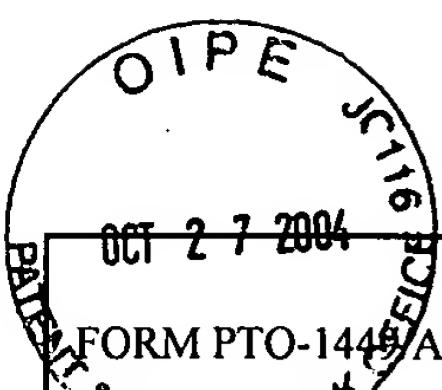
By: 

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Docket No.: C1040.70010US00

Date: October 25 2004

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OCT 27 2004

FORM PTO-1449 A and B (Modified)

**INFORMATION DISCLOSURE
STATEMENT BY APPLICANT**

Sheet 1 of 13

APPLICATION NO.:	09/768,012	ATTY. DOCKET NO.:	C1040.70010US00
FILING DATE:	January 22, 2001	CONFIRMATION NO.:	9273
APPLICANT:	McCluskie et al.		
GROUP ART UNIT:	1632	EXAMINER:	Dave Trong Nguyen

U.S. PATENT DOCUMENTS

Examiner's Initials	Cite No.	U.S. Patent Document		Name of Patentee or Applicant of Cited Document	Date of Publication or of issue of Cited Document MM-DD-YYYY
		Number	Kind Code		
	A44	6,653,292	B1	Krieg et al.	11-25-2003
	A45	6,727,230	B1	Hutcherson et al.	04-27-2004
	A46	2002-0064515	A1	Krieg et al.	05-30-2002
	A47	2002-0091097	A1	Bratzler et al.	07-11-2002
	A48	2002-0156033	A1	Bratzler et al.	10-24-2002
	A49	2002-0164341	A1	Davis et al.	11-07-2002
	A50	2002-0165178	A1	Schetter et al.	11-07-2002
	A51	2002-0198165	A1	Bratzler et al.	12-26-2002
	A52	2003-0026782	A1	Krieg et al.	02-06-2003
	A53	2003-0026801	A1	Weiner et al.	02-06-2003
	A54	2003-0050261	A1	Krieg et al.	03-13-2003
	A55	2003-0050263	A1	Krieg et al.	03-13-2003
	A56	2003-0050268	A1	Krieg et al.	03-13-2003
	A57	2003-0055014	A1	Bratzler	03-20-2003
	A58	2003-0087848	A1	Bratzler et al.	05-08-2003
	A59	2003-0091599	A1	Davis et al.	05-15-2003
	A60	2003-0100527	A1	Krieg et al.	05-29-2003
	A61	2003-0104523	A1	Bauer et al.	06-05-2003
	A62	2003-0139364	A1	Krieg et al.	07-24-2003
	A63	2003-0148316	A1	Lipford et al.	08-07-2003
	A64	2003-0148976	A1	Krieg et al.	08-07-2003
	A65	2003-0166001	A1	Lipford	09-04-2003
	A66	2003-0181406	A1	Schetter et al.	09-25-2003
	A67	2003-0191079	A1	Krieg et al.	10-09-2003
	A68	2003-0212026	A1	Krieg et al.	11-13-2003
	A69	2003-0224010	A1	Davis et al.	12-04-2003
	A70	2003-0232074	A1	Lipford et al.	12-18-2003
	A71	2004-0009949	A1	Krieg	01-15-2004
	A72	2004-0030118	A1	Wagner et al.	02-12-2004
	A73	2004-0053880	A1	Krieg	03-18-2004
	A74	2004-0067905	A1	Krieg	04-08-2004
	A75	2004-0087534	A1	Krieg et al.	05-06-2004
	A76	2004-0087538	A1	Krieg et al.	05-06-2004
	A77	2004-0092472	A1	Krieg	05-13-2004
	A78	2004-0106568	A1	Krieg et al.	06-03-2004
	A79	2004-0131628	A1	Bratzler et al.	07-08-2004
	A80	2004-0132685	A1	Krieg et al.	07-08-2004

FORM PTO-1449/A and B (Modified) INFORMATION DISCLOSURE STATEMENT BY APPLICANT				APPLICATION NO.: 09/768,012	ATTY. DOCKET NO.: C1040.70010US00
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				GROUP ART UNIT: 1632	
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	A83	2004-0147468	A1	Krieg et al.	07-29-2004
	A84	2004-0152649	A1	Krieg	08-05-2004
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	A86	2004-0152657	A1	Krieg et al.	08-05-2004
	A87	2004-0162258	A1	Krieg et al.	08-19-2004
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	A92	3,906,092		Hilleman et al.	09-16-1975
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	A97	5,066,500		Gil et al.	11-19-1991
	A98	5,075,109		Tice et al.	12-24-1991
	A99	5,087,617		Smith	02-11-1992
	A100	5,093,318		Goodman et al.	03-03-1992
	A101	5,248,670		Draper et al.	09-28-1993
	A102	5,457,189		Crooke et al.	10-10-1995
	A103	5,514,577		Draper et al.	05-07-1996
	A104	5,543,152		Webb et al.	08-06-1996
	A105	5,595,756		Bally et al.	01-21-1997
	A106	5,684,147		Agrawal et al.	11-04-1997
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FORM PTO-1449/A and B (Modified) INFORMATION DISCLOSURE STATEMENT BY APPLICANT				APPLICATION NO.: 09/768,012	ATTY. DOCKET NO.: C1040.70010US00
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				APPLICANT: McCluskie et al.	
				GROUP ART UNIT: 1632	EXAMINER: Dave Trong Nguyen
Sheet	3	of	13		

	A121	6,042,838		Briles et al.	03-28-2000
	A122	6,086,898		DeKruyff et al.	07-11-2000
	A123	6,110,745		Zhang et al.	08-29-2000
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FORM PTO-1449/A and B (Modified) INFORMATION DISCLOSURE STATEMENT BY APPLICANT				APPLICATION NO.: 09/768,012	ATTY. DOCKET NO.: C1040.70010US00
				FILING DATE: January 22, 2001	CONFIRMATION NO.: 9273
				APPLICANT: McCluskie et al.	
				GROUP ART UNIT: 1632	EXAMINER: Dave Trong Nguyen
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	A161	2003-0133988	A1	Fearon et al.	07-17-2003
	A162	2003-0138413	A1	Vicari et al.	07-24-2003
	A163	2003-0143213	A1	Raz et al.	07-31-2003
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	A175	2004-0064064	A1	Zhou et al.	04-01-2004
	A176	2004-0092468	A1	Schwartz et al.	05-13-2004

FOREIGN PATENT DOCUMENTS

Examiner's Initials	Cite No.	Foreign Patent Document			Name of Patentee or Applicant of Cited Document (not necessary)	Date of Publication of Cited Document MM-DD-YYYY	Translation (Y/N)
		Office/ Country	Number	Kind Code			
	B50	WO	2004/007743	A2	Coley Pharmaceutical GMBH	01-22-2004	
	B51	WO	2004/039829	A2	Coley Pharmaceutical Group, Ltd.	05-13-2004	
	B52	WO	93/15207	A2	Viagene Inc.	08-05-1993	
	B53	WO	95/17507	A1	Biognostik Gesellschaft Für Biomolekulare Diagnostik MBH [DE]	06-29-1995	
	B54	WO	96/02560	A1	University of North Carolina at Chapel	02-01-1996	
	B55	WO	96/40162	A1	East Carolina University	12-19-1996	
	B56	WO	97/12633	A1	Immunex Corporation	04-10-1997	
	B57	WO	97/42975	A2	Genemedicine Inc.	11-20-1997	
	B58	WO	98/01538	A1	Immunex Corporation	01-15-1998	
	B59	WO	98/40100	A1	Ottawa Civic Loeb Research Institute	09-17-1998	
	B60	WO	98/49288	A1	Hybridon Inc.	11-05-1998	
	B61	WO	99/30686	A1	INEX Pharmaceuticals Corporation	06-24-1999	
	B62	WO	99/33488	A2	Smithkline Beecham Biologicals S.A.	07-08-1999	
	B63	WO	99/33493	A1	INEX Pharmaceuticals Corporation	07-08-1999	
	B64	WO	99/43350	A1	IOMAI Corporation	09-02-1999	
	B65	WO	99/52549	A1	Smithkline Beecham Biologicals S.A.	10-29-1999	
	B66	WO	00/15256	A2	Pasteur Merieux Serums Et Vaccins [FR]	03-23-2000	Y- Abstract Only
	B67	WO	00/21556	A1	Dynavax Technologies Corporation	04-20-2000	

FORM PTO-1449/A and B (Modified) INFORMATION DISCLOSURE STATEMENT BY APPLICANT				APPLICATION NO.: 09/768,012	ATTY. DOCKET NO.: C1040.70010US00
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				GROUP ART UNIT: 1632	EXAMINER: Dave Trong Nguyen
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	B68	WO	00/54803	A2	Panacea Pharmaceuticals, LLC.	09-21-2000	
	B69	WO	00/75304	A1	Aventis Pasteur [FR]	12-14-2000	Y- Abstract Only
	B70	WO	01/55341	A2	The Regents of the University of California	08-02-2001	
	B71	WO	01/62909	A1	Aventis Pasteur [FR]	08-30-2001	Y- Abstract Only
	B72	WO	01/68077	A2	Dynavax Technologies Corporation	09-20-2001	
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EXAMINE R	DATE CONSIDERED
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#EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to Applicant.

*a copy of this reference is not provided as it was previously cited by or submitted to the office in a prior application, Serial No. ___, filed ___, and relied upon for an earlier filing date under 35 U.S.C. 120 (continuation, continuation-in-part, and divisional applications).

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